BRIMFIELD TOWNSHIP BOARD OF ZONING APPEALS

MEETING MINUTES of July 15, 2015

Brimfield Town Hall Meeting Room – 1333 Tallmadge Road, Kent

Present: Chairman Bruce Knippenberg Lisa Cotton Scot Etling

Vince Murdocco

Alternates: Cheryl Rueschman

Absent: Ed Shutty

Staff: Wendi O'Neal, Assistant Zoning Inspector

Public Present:

Name	Phone	Company / E-mail
Lester Moore		
Cynthia Moore		
Sue Helmling		
Trey Helmling		
Brooks Rutledge		
Blasko		
Connie Sholtis		
Rich Sholtis		

CALL TO ORDER:

Bruce Knippenberg calls the Brimfield Township Board of Zoning Appeals to order at 7:15 PM Wednesday, July 15, 2015 meeting.

Roll Call:

Cotten = HereEtling = HereKnippenberg = HereMurdocco = HereShutty = Absent

Rueschman = Absent (Arrived at 7:20 PM).

Cheryl Rueschman does reserve voting rights this meeting, in lieu of an absent member, Ed Shutty.

MOTION#2015-0030

A motion is made to accept the Agenda as presented by **Vince Murdocco**, seconded by **Scot Etling**. Motion carries.

MOTION#2015-0031

A motion was made by **Vince Murdocco** to approve the June 17, 2015 Meeting Minutes, seconded by **Scot Etling**. Motion carries.

SWEARING IN OF APPLICANTS AND COMMENTERS:

Bruce Knippenberg states that the Board of Zoning Appeals is a quasi-judicial board. We have an application for a conditional permit tonight. Anyone having any statements, comments or questions to make tonight shall be directed towards the Board and we ask that you state your name, address, and that you swear or affirm that all the statements that you are making are true to the best of your knowledge; everyone is considered under oath.

Wendi O'Neal dually notes that the meeting has been advertised per the Ohio Revised Code and neighboring properties notified.

PUBLIC COMMENTS:

Bruce Knippenberg states that there was a memo given by the absent Zoning Inspector, **Dick Messner** to the Board as he wanted to advise the board as seen in **Exhibit A via Memo** recusing himself from this application due to personal recommendations and personal use of Mr. Helmling's business.

APPLICATIONS:

Conditional Use Application:

Applicant: David & Susan Helmling, Jr.

Location: 4363 Sunnybrook Rd.
Parcel: 04-035-00-00-040-000
Zoning: R – R Rural Residential

Section 302.02.B.11; Helmling Party Center

Wendi O'Neal: gives a short outline and overview of the subject application.

- This application is in result of a complaint filed June 15, 2015 by a neighboring property owner
- From research, it appears that the business has been in business since 2013.
- Research from the Brimfield Police Department included numerous complaints ranging from noise to disordering conduct in the vicinity of 4363 Sunnybrook Rd, four (4) were given with the letter given to the applicant in follow-up procedure to the complaint.
- Subject property has been linked to weddings, reunions, baby showers, Portage County Realtors Association, Auctions, etc.
- Subject zoning is Rural Residential
- Notes that the same owner does own the rear adjacent properties that front Mogadore Road, totaling ten (10) acres but the Mogadore Road properties are zoned R-O Residential-Office; different zoning districts.
- Sufficient surrounding residential properties.
- Brimfield Township Land-Use Map subject property is labeled vacant land.
- Shows aerial views, tax map, overview of property as shown on Portage County Auditors website; noting house, pool barn, garage, pool and driveway.
- Shows the drawing given by the applicant as the proposed business design.
- Notes the proposed business design is missing the pool on the property which appears to not have a fence.
- States there have been reports of a full bar located within one of the buildings, the middle 'garage'.
- Zoning Department has received calls of fireworks, noise complaints, increased traffic.
- Appears that the business is operating by the word-of-mouth rental basis.
- Applicant is a well-known generational family within the Township.
- Application purpose is to get the use/property into compliance.

Bruce Knippenberg: Will include the **four (4) incident reports** as **Exhibit B** for the record with the majority being disorderly conduct. Will include a **signed petition** as **Exhibit C**, which is a collection of local neighboring properties requesting the Board to deny the application.

Dan Blasko, 4406 Sunnybrook, What was the complaint for? I live across the street.

Wendi O'Neal: The complaint filed was for noise, and a business operating in a residential area. **Dan Blasko**: I'm kind of confused of what is going on here. My apologizes, I received a letter about something, that I did not read. The wife said I had to come. I hear some complaints about noise.

Bruce Knippenberg: Okay, what is going on is that the applicants have applied for a conditional permit for a party center; that is what is being talked about right now.

Dan Blasko: Okay.

Bruce Knippenberg: What brought this about was the number of complaints in which brought the Police Department and the Zoning Department to get involved. And now the applicants are now coming forward in order to get everything into compliance, met all the rules and regulations, and so forth. And they have applied now, so that is what tonight's meeting is about; that application.

Dan Blasko: Thank you.

Bruce Knippenberg: Again the application is for a conditional permit that appears it is allowed in that particular zoning district, which is for a party center, with the applicants being David and

Susan Helmling. Let us start with the applicant. Please let the Board know what it is that you want to do on the premises and what you need as far as the Board is concerned.

Sue Helmling: Personally, I have never called it the Helmling Party Center; I guess people just needed something to reference to know where they are going, and they have named it that. Primarily I started out with a lot of family, in which I have a lot, and close friends that do not have a place to have a baby shower or a bridal shower, or kid's class or graduation parties.

Bruce Knippenberg: I'm sorry, could you state your name first for the record please?

Sue Helmling: Sorry, Sue Helmling.

Bruce Knippenberg: And you live at the residence at the 4363 Sunnybrook Rd.?

Sue Helmling: Yes.

Bruce Knippenberg: Okay.

Sue Helmling: And the fact that we have the room, I have had every one of my nieces' and nephews' showers, graduation parties, rehearsal dinners, bridals showers, baby showers. I mean we just have the space to do it and I mean we do it. It has kind of snowballed. Somebody, actually I did a class reunion for my mother-in-law, somebody was there asked to do theirs. I have never considered it a party center. Noise complaints: I do have to say that my son got married September 13th and two of the complaints were that same night for too loud of music. I actually had a Brimfield Police Officer D-Jing for me.

Trey Helmling: She's also had Brimfield Fire Department Christmas Parties there numerous of times.

Sue Helmling: And then the last one, June 11th my other son got married. It was his rehearsal dinner and Dave did shoot off fireworks. Which I guess I should have notified my neighbors that my son was getting married. I would have had his wedding in my back yard, in which a lot of people do, without it being considered a party center.

Bruce Knippenberg: But you don't charge for any of these?

Sue Helmling: Like I said the class reunions I will, you know, let people use my facility, but baby showers, bridal showers are just like friends of mine that don't have a facility to use and you know, I have the tables and chairs and things there.

Trey Helmling: And the stuff that anybody has pulled up off the internet or online, zero of that has came from us. That might have been a class reunion that she is doing.

Sue Helmling: They call it the Helmling Party Center. It's just the name it has been given. I never even really even thought about coming and having to get a permit and if that is what I need to do, fine. If it is that much of a problem and I need to back off and just do it for family, that is fine too.

Lisa Cotten: So the annual RPAC auction, did people pay for that?

Sue Helmling: They did. That was my husband's cousin and is the reason I did that. She is the one that approached me on that.

Trey Helmling: It is not like we advertise or go out, zero.

Bruce Knippenberg: No, I understand that. The only thing that would be the question is if it is or has become a business. If you are going to charge people for using it, then it becomes a business. Come up with a name, call it the Party Center. If you are not going to charge anything and it is just going to be family, friends, relatives, neighbors, whatever, then you don't need to be here.

Trey Helmling: Don't charge.

Dan Blasko: The area is zoned for this then?

Bruce Knippenberg: The area is zoned rural residential.

Lisa Cotten: If you are not charging for something to be held there then it would be the same as having a party in your backyard.

Vince Murdocco: True. It is your own facility.

Lisa Cotten: It's your own property.

Bruce Knippenberg: But as a party center, if they do want to charge, or turn it into a party center, make money off of it, make it into a business, then it is allowed in our zoning resolution section 302.02.11. Basically, allows for a conditional permit. Conditional permit when compared to a regular permit: is that if it is permitted use you already have the right to do it, conditionally permitted use has to come before this Board, apply for the conditionally permitted use, conditions are set such as don't set off fireworks without a permit, don't serve drinks without a liquor license, things of that nature, keep lighting down, noise down, etc. If they agree to those conditions then the applications would go forward from there. If they decide that is what they want to do, then we will continue.

Sue Helmling: Like I said I do have some class reunions that pay, I'm not going to deny that. It has all been word-of-mouth and to be honest with you I am getting a little burned out and want to cut back anyhow. But if I could get the permit without a huge hassle, I mean I am not sitting

here trying to frustrate all of my neighbors. With Dave's business I could use that as parking facility if parking in my driveway and my yard is a problem. We do not park on the street. Our road is curvy, and scary enough. We avoid that.

Lisa Cotten: How many acres of land do you have there, total?

Sue Helmling: Five on this property and ten total; between the two roads.

Scot Etling: I am going to ask what might be a stupid question but if you become a party center and you have a party there, then there is liquor licenses, there's ADA parking, there is all this stuff that is going to come in to play too. The first time you have loud music and somebody is going to call the police, they are going to say, check their liquor license.

Sue Helmling: And there again, I mean if you guys have a party in your backyard, you know people can bring their own liquor. I mean wouldn't you have a backyard party,

Scot Etling: But you can't charge; I can't charge people to come there.

Sue Helmling: And I can deal with that.

Scot Etling: I mean I can have a party in my backyard but I can't charge people to come there.

Sue Helmling: I can definitely deal with that.

Bruce Knippenberg: As long as it is not part of what you are making money from. I remember when the Tallmadge bowling alley used to have leagues and you brought your own beer and nobody said a thing about it.

Vince Murdocco: That was many moons ago.

Bruce Knippenberg: Yes, it was.

Cheryl Rueschman: When you said firecrackers, and the only reason I am asking is because we have a man next door that has a beautiful in-ground pool and they built something almost like a home, so that you could have tables and everybody could go in when it's cold, etc. They do set off firecrackers and what happened was the corner of our barn caught on fire. Now everybody is required to have an acre and a lot of us have a little more, so when you are setting off firecrackers, you cannot contain it once it is gone. And that is what happened and he ended up paying for that to be redone. The reason is that you have a lot of people and it's congested, when you set them off you never know if it is going to backfire. That's why they always tell you if you are going to do this. Our fire chief lives on the street, and is a neighbor of mine. The thing is that, you never know, you can't control it, oh it's just a little of this and a little of that, pretty soon something happens. And you never know what you are going to end up with. Somebody injured in which someone was injured, so you have to be careful. A few fingers missing but if you are the person missing the fingers, it's not fun. So it is nothing that is set in cement but I would caution you for the fireworks.

Sue Helmling: We don't set off fireworks every time we have people at the house.

Bruce Knippenberg: Right. That was just one of the complaints.

Sue Helmling: Anybody that knows my husband knows that that is his favorite holiday of the year. We do have fireworks. In the middle of the ten acres he has fireworks on the ground in the middle of our ten acre field. There are no other houses around. Noise, I would think that people would want to sit out in their backyard and enjoy the fireworks because they are nice. Of course there is someone complaining about it, but that is a total different subject than what we are here for today. That is just something that personally Dave thought.

Cheryl Rueschman: I am just waving on the side of caution, when somebody loses a finger or a hand and you are doing that. I don't care if you have 10 acres or 20 acres you have to be very cautious. Cautious is never enough, as I have been at a hospital for 22 years, it is never enough.

Dan Blasko: So is the object for them to get conditional approval?

Bruce Knippenberg: Yes right now the objective is that they are going for a conditional permit. **Dan Blasko**: Personally I live by them, and I really don't have any issues. I wasn't even aware of what this was about except that I had to be here. It was zoning and something to do with our area. And I wasn't aware of the complaints. Yes, I heard some fireworks going off, but come on, give me a break it is right around the fourth of July.

Scot Etling: Well I think what the problem was/is that, reading from the police reports is that it was around 11:30 at night, 10:30 at night, that kind of stuff. I think that is more of the issue.

Lisa Cotten: And there are some other issues of noise and some other complaints.

Scot Etling: It's not just the fourth of July, we all know that it happens around that time.

Lisa Cotten: We all deal with that.

Dan Blasko: Exactly.

Sue Helmling: The other time was our son's wedding so I apologize for that.

Dan Blasko: I just fail to see the issue is what I am stating and I live close by. Yea, I have seen cars out there, but as far as I'm concerned it has always remained orderly. I wasn't aware of all the agenda or the complaints.

Wendi O'Neal: There was also a complaint of a close veteran neighbor suffering with PTSD, and that the fireworks really bother him.

Bruce Knippenberg: So you do want to go forward with the permit?

Sue Helmling: Yes.

Bruce Knippenberg: Basically now we just come up with some conditions, I mean we have your property as it shown here. Well we will start with the ones that are on the floor.

Rich Sholtis: Are you done taking comments?

Bruce Knippenberg: No, we will still take comments.

Rich Sholtis: Okay. Rich Sholtis, 4348 Sunnybrook. I live directly across the street from them. I personally have called the police a couple of times, two or three times, because they did not respond at first. They had the music so damn loud that I closed my windows and I could still hear it through the wall and turn my TV up so I could hear the TV. They were going off with music and a d-j until after midnight. It was 1:00 AM when they finally shut up and that was in May I believe. I documented that, I called the police and briefly they got quiet for like twenty minutes, then music went back up and the d-j started back up again. And since I hear that someone in the police department is one of their d-j's then that explains why they didn't even bother to show up, it seems like. So I am 100 percent against it. If they had an ounce of respect for their neighbors then they wouldn't even be here. They should be quiet by 10:00 pm. People have jobs, not everyone works the same shift. They've got places to be. Show some respect for your neighbors. And if I would have gone over there without calling the cops then I probably would have had the cops called on me. So I have had it with them. If I can still hear it through my wall at midnight, 1:00 AM, and it's not just the fourth of July. It has been several nights through the week, on weekends, and finally one of the neighbors had had enough and filed a complaint.

Wendi O'Neal: It appears that even with the neighbors that are on vacation, that since 2013 through to today, the neighbors have just had enough of the noise. That is really what it adds up to and why we are here; the neighbors are just fed up.

Bruce Knippenberg: Okay.

Lisa Cotten: Does anybody else have any other questions or comments in the audience? Cynthia Moore: We live adjacent from their property. The fireworks are not just on holidays. The other day they were blowing these things off that sounds like they are blowing up a steel barrel. And they would do it every twenty minutes. We would no more than go to sleep and BOOM, then go back to sleep, then BOOM. I thought 11:30 at night; this is not respecting neighbors. We have been neighbors for 25 years and didn't want to have this kind of problem but it seems as though it is just getting worse all the time. It started our real small and now they are going to the bigger parties. And you know it gets so loud. Fireworks are not every day fireworks; they are commercial size fireworks. They go off, and they come to our yard, even if they have ten acres. He (husband) has to go pick them up off our barn. But it is just the lack of respect for the rest of the people that live around them. I mean we have known them for years, but this party thing is totally getting out of hand. And I have talked to the neighbors, and if it was just in a once-in a while thing, but now it has become every weekend. Every weekend there is a party, you get loud, you get the drinking. If they get a liquor license, you know they are already serving alcohol. What is it going to be like if they actually legally get a liquor license? And then we get drunk drivers, we have kids on that road. On Mogadore Road, every day we pick up beer cans. A drinking problem is a big thing in Brimfield; not just them but everywhere.

Sue Helmling: Beer cans on Mogadore has nothing to do with us.

Cynthia Moore: Well if they are leaving your property...

Sue Helmling: I know we do not have parties every single weekend.

Trey Helmling: I know there was a d-j on the fourth of July, but besides the fourth of July there was a d-j last year one time, in September for my brother's wedding.

Sue Helmling: When I have class reunions they do not have d-js there.

Rich Sholtis: So it wasn't a d-j then it was someone on a loud speaker then? Which was just as bad.

Bruce Knippenberg: Okay, the reports that we have in front of us are from June 11th for..

Trey Helmling: That was my rehearsal dinner.

Bruce Knippenberg: Okay, right that was the fireworks.

Lisa Cotten: June 4th was the APACK Auction?

Sue Helmling: Yes.

Lisa Cotten: And that was?

Sue Helmling: They did not have any music.

Trey Helmling: There might have been a loud speaker then.

Bruce Knippenberg: That was the neighbor complaint. We have one from 9/13.

Sue Helmling: That was my son's wedding.

Bruce Knippenberg: (Police Incident Report) says that one was for the live band; sounds like a live band so that would have been the d-i.

Sue Helmling: But like I said, to be honest with you most of my functions, I mean, I have one this Saturday that are 79 years old, and are coming at 3:00 in the afternoon. And they are having burgers and sausage on the grill and they will probably be done by 9:00.

Lisa Cotten: Are they paying for the event, this event?

Sue Helmling: Yes, they are.

Bruce Knippenberg: That is for the class reunion?

Sue Helmling: Yes.

Bruce Knippenberg: Okay. And the other one was from 7/5/2013 that was a fireworks one. **Sue Helmling**: And these booms that she keeps talking about, trust me and my husband and I are the only two that live at that house anymore and we are not normally up at 11:30 at night. We both do get up and go to work in the morning.

Bruce Knippenberg: Okay, so tell us exactly what it is that you want to do and we will go from there.

Sue Helmling: Like I said, and as far as, I mean if you want to put a timeframe on it, that I had to shut down at a certain time, that is not a problem. Most of the class reunions I do are for older classes, like 1950s and 60s, very seldom do I do anything younger. I never do any of those class reunions. And mostly showers and graduations are friends of mine, that I do not charge them for and just let them have the shower there. Just like you would rent a hall in Suffield, and have a baby shower there.

Trey Helmling: Kent Fire Department just had a retirement party there, Chuck Palmer for free. **Sue Helmling**: I did not charge them. I allowed the Kent Fire Department to use my facility. They brought in their own food. Like I said I have the tables, chairs and buildings and most the time that is what it is.

Lisa Cotten: Mr. Chairman, my interpretation does not permit this in this zoning district. **Bruce Knippenberg**: I was only going by what was recommended by the Zoning Inspector. **Scot Etling**: I would agree too.

Vince Murdocco: I would also.

Lisa Cotten: I mean it says a public and private golf course, riding academies and associated dining facilities. And in those instances you would have a substantially greater acreage than what we got here. I wouldn't want something like this in my neighborhood. Sorry, with all due respect, I'm just saying.

Bruce Knippenberg: Okay. Well this is just what they quoted for the application.

Lisa Cotten: Also stating that I moved from where I lived down to Old Forge because of a similar issue, so I am very sensitive to this issue.

Cynthia Moore: We live at 4323 Mogadore Road and we have a pavilion, we have plenty of acreage and we have never had anything called on us. We do family and we do friends. **Lisa Cotten**: I mean there is nothing wrong with having a party at your house, but charging

Trey Helmling: This is where this is getting blown out of proportion.

Scot Etling: Well it is not.

Lisa Cotten: In any instance where you are charging someone to come to your house that is not blown out of proportion.

Scot Etling: And I will go on the other side, obviously there is a problem. There is a petition, there are people sitting here, there are police incident reports, so I mean there is a problem some place.

Vince Murdocco: The petition has 14 names on it.

people to have events there is a different story.

Sue Helmling: I could have gone around and have neighbors say that they have no problem with it; if I thought I needed to. And bottom line is that if I need to stop this I am fine with it. But my neighbors need to realize that I am still going to let family and friends use my property. **Lisa Cotten**: And that is fine, we can't control that, but I do not interpret this zoning code to

mean that this would be an allowed use in this district.

Bruce Knippenberg: Well not an allowed use,

Lisa Cotten: Or a conditionally permitted use. That is just my opinion.

Sue Helmling: Can I see the petition?

Bruce Knippenberg: Yes, it is part of the record.

Cheryl Rueschman: It also says people on a microphone. **Trey Helmling**: That might have been from that auction.

Sue Helmling: It's not like I own a microphone and we sit and talk on it every night.

Scot Etling: See, there kind of lies some of the problem, you have to explain everything because obviously everybody else is hearing it. So there is the problem.

Cheryl Rueschman: It's not the fact that it is every night, I kind of doubt that anybody in this room would stand here and say that it is every night. The time that it does happen seems to offend people that are in vicinity.

Bruce Knippenberg: The dining facility would be associated with the golf course.

Lisa Cotten: That is how I read it too.

Sue Helmling: You know I do see that there are 14 people on this list, but three live in the same household. Most of them are twos.

Bruce Knippenberg: Okay.

Sue Helmling: And I can go to my neighbors and get my neighbors to sign.

Bruce Knippenberg: You do have some neighbors here that have said they don't object.

Sue Helmling: across the street that.

Cynthia Moore: What I understand that it was within 500 feet the neighbors were notified.

David Jenkins: I live on 4672 Mogadore Road. I have family that lives on Sunnybrook Road as well, just below Blitz, just on top of the hill you know how it breaks down. I have lived there for 16 years and it has escalated substantially in the last few years. I have grandchildren that live on the road. At times there are problems traveling up and down the road with the amount of traffic. Me, personally, I do not think it is the place; just not the right place for it.

Bruce Knippenberg: Well if you want to make a motion as to your understanding of the resolution, we could put an end to it now.

Vince Murdocco: I agree that that is my understanding also.

Lisa Cotten: I make a motion that based on the permit request, it does not fit into the

conditionally permitted use in the Rural-Residential zoning district.

Vince Murdocco: I will second that.

MOTION#2015-0032

A motion is made by **Lisa Cotten** that based on the permit request under Section 302.02.B.11 the application for a party center does not fit into the conditionally permitted use in the Rural-Residential zoning district, seconded by **Vince Murdocco**. Motion Carries.

Sue Helmling: I do want to say one thing, that I do have a couple of commitments, am I allowed to? Well you would not appreciate it if I called you and cancelled something.

Lisa Cotten: No, I understand. That is a fair question. What are the dates those?

Sue Helmling: It will be the next two months. So this is July, August and September. There will be no fireworks and they are not parties, they are small gatherings.

Bruce Knippenberg: No fireworks, no late noise.

Lisa Cotten: What are the times of the events?

Sue Helmling: Most are morning showers or early afternoon. There will be a few class

reunions but they won't be loud.

Lisa Cotten: So if we say by September 15, 2015? **Sue Helmling**: Can we do September 30, 2015?

Vince Murdocco: Set a time also. Bruce Knippenberg: 10:00 or 11:00?

MOTION#2015-0033

A motion is made by **Lisa Cotten** that it is the Board's opinion that the Brimfield Township Zoning Resolution does not allow this application's use as a conditional permitted use in the Rural- Residential District, that however due to applicant's obligations, the Board will permit the use until September 30, 2015, to not operate any later than 10:00 PM, no fireworks, no noise and no lights, motion is seconded by **Vince Murdocco**. Motion carries; **Bruce Knippenberg** abstains for the reasoning as he was at the applicant's property previously, for a meeting on sewer lines.

Sue Helmling: 10:00 pm is okay. Also that in the future my neighbors understand that I will allow my friends and family to have their showers and other parties at my property.

Lisa Cotten: That is okay, as long as you are not operating as a business in a residential area. **Bruce Knippenberg**: We will have nothing to do with it. They can still call the police.

Rich Sholtis: Keep the sound down and have some respect for your neighbors.

AUDIENCE QUESTIONS:	
OLD BUSINESS:	
NEW BUSINESS:	
GOOD OF THE ORDER:	
SET NEXT MEETING:	
Next meeting is scheduled for Wed	lnesday, August 19, 2015, at 7:15 PM.
ADJOURN: MOTION#2015-0034 A motion was made by Vince Mur Appeals meeting, and was seconded by Lis	rdocco to adjourn the July 15, 2015 Board of Zoning sa Cotten at 8:00 PM. Motion carries.
Chairman Bruce Knippenberg	Vice Lisa Cotten
Scot Etling	Vince Murdocco
Ed Shutty	Secretary Wendi O'Neal

Alternate: Cheryl Rueschman